

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE JULY 13, 2011

AMENDED IN ASSEMBLY MAY 18, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1069

Introduced by Assembly Member Fuentes
(Principal coauthors: Assembly Members Gatto, Hall, and Smyth)
(Coauthors: Assembly Members Butler, Ma, and Portantino)
(Coauthors: Senators Alquist, Pavley, and Price)

February 18, 2011

An act to *add Section 17053.86 to, and to repeal and amend Sections 17053.85 and 23685 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1069, as amended, Fuentes. Income taxes: credits: film: extension.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by *those* laws, including a credit against those taxes for taxable years beginning on or after January 1, 2011, in an amount equal to a specified percentage of the qualified expenditures, as defined, attributable to the production of a qualified motion picture in California, or, where the qualified motion picture has relocated to California or is an independent film, as provided. Existing law requires the California Film Commission to allocate the tax credits until July 1, 2014, and limits the aggregate amount of ~~qualified motion pictures~~ credits that may be allocated *to qualified motion pictures* in any fiscal year to \$100,000,000, through the 2013–14 fiscal year.

This bill, under the Personal Income Tax Law and the Corporation Tax Law, would extend the California Film Commission's requirement to allocate the tax credits ~~5 one additional years year~~, until July 1, ~~2019~~ 2015. This bill would also extend the limit on the aggregate amount of credits that may be allocated through the ~~2018-19~~ 2014-15 fiscal year. This bill would require the California Film Commission to provide the Legislative Analyst's Office with specified application materials, and would require the Legislative Analyst's Office to ~~conduct release publicly and provide to the Assembly Committee on Revenue and Taxation and the Senate Committee on Governance and Finance~~ a study relating to the economic activity created by evaluating the economic effects and administration of this credit, as prescribed. By expanding the crime relating to the disclosure of information from specified returns, reports, or documents, this bill would impose a state-mandated local program. *This bill would also require the Director of Finance to eliminate the extension of the allocation of the film tax credit, described above, from July 1, 2014, to July 1, 2015, inclusive, if the higher revenue forecast, as specified, projects General Fund revenues of less than \$87,452,500,000 and if a specified budget provision is operative.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.85 of the Revenue and Taxation
- 2 Code, as added by Section 4 of Chapter 10 of the 3rd Extraordinary
- 3 Session of the Statutes of 2009, is repealed.
- 4 SEC. 2. Section 17053.85 of the Revenue and Taxation Code,
- 5 as added by Section 4 of Chapter 17 of the 3rd Extraordinary
- 6 Session of the Statutes of 2009, is amended to read:
- 7 17053.85. (a) (1) For taxable years beginning on or after
- 8 January 1, 2011, there shall be allowed to a qualified taxpayer a
- 9 credit against the "net tax," as defined in Section 17039, in an
- 10 amount equal to the applicable percentage, as specified in

1 paragraph (4), of the qualified expenditures for the production of
2 a qualified motion picture in California.

3 (2) The credit shall be allowed for the taxable year in which the
4 California Film Commission issues the credit certificate pursuant
5 to subdivision (g) for the qualified motion picture, and shall be for
6 the applicable percentage of all qualified expenditures paid or
7 incurred by the qualified taxpayer in all taxable years for that
8 qualified motion picture.

9 (3) The amount of the credit allowed to a qualified taxpayer
10 shall be limited to the amount specified in the credit certificate
11 issued to the qualified taxpayer by the California Film Commission
12 pursuant to subdivision (g).

13 (4) For purposes of paragraphs (1) and (2), the applicable
14 percentage shall be:

15 (A) Twenty percent of the qualified expenditures attributable
16 to the production of a qualified motion picture in California.

17 (B) Twenty-five percent of the qualified expenditures
18 attributable to the production of a qualified motion picture in
19 California where the qualified motion picture is a television series
20 that relocated to California or an independent film.

21 (b) For purposes of this section:

22 (1) “Ancillary product” means any article for sale to the public
23 that contains a portion of, or any element of, the qualified motion
24 picture.

25 (2) “Budget” means an estimate of all expenses paid or incurred
26 during the production period of a qualified motion picture. It shall
27 be the same budget used by the qualified taxpayer and production
28 company for all qualified motion picture purposes.

29 (3) “Clip use” means a use of any portion of a motion picture,
30 other than the qualified motion picture, used in the qualified motion
31 picture.

32 (4) “Credit certificate” means the certificate issued by the
33 California Film Commission pursuant to subparagraph (C) of
34 paragraph (2) of subdivision (g).

35 (5) (A) “Employee fringe benefits” means the amount allowable
36 as a deduction under this part to the qualified taxpayer involved
37 in the production of the qualified motion picture, exclusive of any
38 amounts contributed by employees, for any year during the
39 production period with respect to any of the following:

1 (i) Employer contributions under any pension, profit-sharing,
2 annuity, or similar plan.

3 (ii) Employer-provided coverage under any accident or health
4 plan for employees.

5 (iii) The employer's cost of life or disability insurance provided
6 to employees.

7 (B) Any amount treated as wages under clause (i) of
8 subparagraph (A) of paragraph (18) shall not be taken into account
9 under this paragraph.

10 (6) "Independent film" means a motion picture with a minimum
11 budget of one million dollars (\$1,000,000) and a maximum budget
12 of ten million dollars (\$10,000,000) that is produced by a company
13 that is not publicly traded and publicly traded companies do not
14 own, directly or indirectly, more than 25 percent of the producing
15 company.

16 (7) "Licensing" means any grant of rights to distribute the
17 qualified motion picture, in whole or in part.

18 (8) "New use" means any use of a motion picture in a medium
19 other than the medium for which it was initially created.

20 (9) (A) "Postproduction" means the final activities in a qualified
21 motion picture's production, including editing, foley recording,
22 automatic dialogue replacement, sound editing, scoring and music
23 editing, beginning and end credits, negative cutting, negative
24 processing and duplication, the addition of sound and visual effects,
25 soundmixing, film-to-tape transfers, encoding, and color correction.

26 (B) "Postproduction" does not include the manufacture or
27 shipping of release prints.

28 (10) "Preproduction" means the process of preparation for actual
29 physical production which begins after a qualified motion picture
30 has received a firm agreement of financial commitment, or is
31 greenlit, with, for example, the establishment of a dedicated
32 production office, the hiring of key crew members, and includes,
33 but is not limited to, activities that include location scouting and
34 execution of contracts with vendors of equipment and stage space.

35 (11) "Principal photography" means the phase of production
36 during which the motion picture is actually shot, as distinguished
37 from preproduction and postproduction.

38 (12) "Production period" means the period beginning with
39 preproduction and ending upon completion of postproduction.

1 (13) “Qualified entity” means a personal service corporation as
2 defined in Section 269A(b)(1) of the Internal Revenue Code, a
3 payroll services corporation, or any entity receiving qualified wages
4 with respect to services performed by a qualified individual.

5 (14) (A) “Qualified individual” means any individual who
6 performs services during the production period in an activity related
7 to the production of a qualified motion picture.

8 (B) “Qualified individual” shall not include either of the
9 following:

10 (i) Any individual related to the qualified taxpayer as described
11 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
12 Revenue Code.

13 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
14 the Internal Revenue Code, of the qualified taxpayer.

15 (15) (A) “Qualified motion picture” means a motion picture
16 that is produced for distribution to the general public, regardless
17 of medium that is one of the following:

18 (i) A feature with a minimum production budget of one million
19 dollars (\$1,000,000) and a maximum production budget of
20 seventy-five million dollars (\$75,000,000).

21 (ii) A movie of the week or miniseries with a minimum
22 production budget of five hundred thousand dollars (\$500,000).

23 (iii) A new television series produced in California with a
24 minimum production budget of one million dollars (\$1,000,000)
25 licensed for original distribution on basic cable.

26 (iv) An independent film.

27 (v) A television series that relocated to California.

28 (B) To qualify as a “qualified motion picture,” all of the
29 following conditions shall be satisfied:

30 (i) At least 75 percent of the production days occur wholly in
31 California or 75 percent of the production budget is incurred for
32 payment for services performed within the state and the purchase
33 or rental of property used within the state.

34 (ii) Production of the qualified motion picture is completed
35 within 30 months from the date on which the qualified taxpayer’s
36 application is approved by the California Film Commission. For
37 purposes of this section, a qualified motion picture is “completed”
38 when the process of postproduction has been finished.

1 (iii) The copyright for the motion picture is registered with the
2 United States Copyright Office pursuant to Title 17 of the United
3 States Code.

4 (iv) Principal photography of the qualified motion picture
5 commences after the date on which the application is approved by
6 the California Film Commission, but no later than 180 days after
7 the date of that approval.

8 (C) For the purposes of subparagraph (A), in computing the
9 total wages paid or incurred for the production of a qualified
10 motion picture, all amounts paid or incurred by all persons or
11 entities that share in the costs of the qualified motion picture shall
12 be aggregated.

13 (D) “Qualified motion picture” shall not include commercial
14 advertising, music videos, a motion picture produced for private
15 noncommercial use, such as weddings, graduations, or as part of
16 an educational course and made by students, a news program,
17 current events or public events program, talk show, game show,
18 sporting event or activity, awards show, telethon or other
19 production that solicits funds, reality television program, clip-based
20 programming if more than 50 percent of the content is comprised
21 of licensed footage, documentaries, variety programs, daytime
22 dramas, strip shows, one-half hour (air time) episodic television
23 shows, or any production that falls within the recordkeeping
24 requirements of Section 2257 of Title 18 of the United States Code.

25 (16) “Qualified expenditures” means amounts paid or incurred
26 to purchase or lease tangible personal property used within this
27 state in the production of a qualified motion picture and payments,
28 including qualified wages, for services performed within this state
29 in the production of a qualified motion picture.

30 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
31 or incurred qualified expenditures and has been issued a credit
32 certificate by the California Film Commission pursuant to
33 subdivision (g).

34 (B) In the case of any passthrough entity, the determination of
35 whether a taxpayer is a qualified taxpayer under this section shall
36 be made at the entity level and any credit under this section is not
37 allowed to the passthrough entity, but shall be passed through to
38 the partners or shareholders in accordance with applicable
39 provisions of Part 10 (commencing with Section 17001) or Part
40 11 (commencing with Section 23001). For purposes of this

1 paragraph, “passthrough entity” means any entity taxed as a
2 partnership or “S” corporation.

3 (18) (A) “Qualified wages” means all of the following:

4 (i) Any wages subject to withholding under Division 6
5 (commencing with Section 13000) of the Unemployment Insurance
6 Code that were paid or incurred by any taxpayer involved in the
7 production of a qualified motion picture with respect to a qualified
8 individual for services performed on the qualified motion picture
9 production within this state.

10 (ii) The portion of any employee fringe benefits paid or incurred
11 by any taxpayer involved in the production of the qualified motion
12 picture that are properly allocable to qualified wage amounts
13 described in clause (i).

14 (iii) Any payments made to a qualified entity for services
15 performed in this state by qualified individuals within the meaning
16 of paragraph (14).

17 (iv) Remuneration paid to an independent contractor who is a
18 qualified individual for services performed within this state by that
19 qualified individual.

20 (B) “Qualified wages” shall not include any of the following:

21 (i) Expenses, including wages, related to new use, reuse, clip
22 use, licensing, secondary markets, or residual compensation, or
23 the creation of any ancillary product, including, but not limited to,
24 a soundtrack album, toy, game, trailer, or teaser.

25 (ii) Expenses, including wages, paid or incurred with respect to
26 acquisition, development, turnaround, or any rights thereto.

27 (iii) Expenses, including wages, related to financing, overhead,
28 marketing, promotion, or distribution of a qualified motion picture.

29 (iv) Expenses, including wages, paid per person per qualified
30 motion picture for writers, directors, music directors, music
31 composers, music supervisors, producers, and performers, other
32 than background actors with no scripted lines.

33 (19) “Residual compensation” means supplemental
34 compensation paid at the time that a motion picture is exhibited
35 through new use, reuse, clip use, or in secondary markets, as
36 distinguished from payments made during production.

37 (20) “Reuse” means any use of a qualified motion picture in the
38 same medium for which it was created, following the initial use
39 in that medium.

1 (21) “Secondary markets” means media in which a qualified
2 motion picture is exhibited following the initial media in which it
3 is exhibited.

4 (22) “Television series that relocated to California” means a
5 television series, without regard to episode length or initial media
6 exhibition, that filmed all of its prior season or seasons outside of
7 California and for which the taxpayer certifies that the credit
8 provided pursuant to this section is the primary reason for
9 relocating to California.

10 (c) (1) Notwithstanding any other law, a qualified taxpayer
11 may sell any credit allowed under this section that is attributable
12 to an independent film, as defined in paragraph (6) of subdivision
13 (b), to an unrelated party.

14 (2) The qualified taxpayer shall report to the Franchise Tax
15 Board prior to the sale of the credit, in the form and manner
16 specified by the Franchise Tax Board, all required information
17 regarding the purchase and sale of the credit, including the social
18 security or other taxpayer identification number of the unrelated
19 party to whom the credit has been sold, the face amount of the
20 credit sold, and the amount of consideration received by the
21 qualified taxpayer for the sale of the credit.

22 (3) In the case where the credit allowed under this section
23 exceeds the “net tax,” the excess credit may be carried over to
24 reduce the “net tax” in the following taxable year, and succeeding
25 five taxable years, if necessary, until the credit has been exhausted.

26 (4) A credit shall not be sold pursuant to this subdivision to
27 more than one taxpayer, nor may the credit be resold by the
28 unrelated party to another taxpayer or other party.

29 (5) A party that has acquired tax credits under this section shall
30 be subject to the requirements of this section.

31 (6) In no event may a qualified taxpayer assign or sell any tax
32 credit to the extent the tax credit allowed by this section is claimed
33 on any tax return of the qualified taxpayer.

34 (7) In the event that both the taxpayer originally allocated a
35 credit under this section by the California Film Commission and
36 a taxpayer to whom the credit has been sold both claim the same
37 amount of credit on their tax returns, the Franchise Tax Board may
38 disallow the credit of either taxpayer, so long as the statute of
39 limitations upon assessment remains open.

1 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code does not apply to
3 any standard, criterion, procedure, determination, rule, notice, or
4 guideline established or issued by the Franchise Tax Board
5 pursuant to this subdivision.

6 (9) Subdivision (g) of Section 17039 shall not apply to any
7 credit sold pursuant to this subdivision.

8 (10) For purposes of this subdivision, the unrelated party or
9 parties that purchase a credit pursuant to this subdivision shall be
10 treated as a qualified taxpayer pursuant to paragraph (1) of
11 subdivision (a).

12 (d) No credit shall be allowed pursuant to this section unless
13 the qualified taxpayer provides the following to the California
14 Film Commission:

15 (1) Identification of each qualified individual.

16 (2) The specific start and end dates of production.

17 (3) The total wages paid.

18 (4) The amount of qualified wages paid to each qualified
19 individual.

20 (5) The copyright registration number, as reflected on the
21 certificate of registration issued under the authority of Section 410
22 of Title 17 of the United States Code, relating to registration of
23 claim and issuance of certificate. The registration number shall be
24 provided on the return claiming the credit.

25 (6) The total amounts paid or incurred to purchase or lease
26 tangible personal property used in the production of a qualified
27 motion picture.

28 (7) Information to substantiate its qualified expenditures.

29 (8) Information required by the California Film Commission
30 under regulations promulgated pursuant to subdivision (g)
31 necessary to verify the amount of credit claimed.

32 (e) The California Film Commission may prescribe rules and
33 regulations to carry out the purposes of this section including any
34 rules and regulations necessary to establish procedures, processes,
35 requirements, and rules identified in or required to implement this
36 section. The regulations shall include provisions to set aside a
37 percentage of annual credit allocations for independent films.

38 (f) If the qualified taxpayer fails to provide the copyright
39 registration number as required in paragraph (5) of subdivision

(d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) On or after July 1, 2009, and before July 1, ~~2019~~ 2015, allocate tax credits to applicants.

(A) Establish a procedure for applicants to file with the California Film Commission a written application, on a form jointly prescribed by the California Film Commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:

(i) The budget for the motion picture production.

(ii) The number of production days.

(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) *All members of a combined reporting group and any members to which the credit is assigned, including, if readily available, the states, provinces, or other jurisdictions in which any of those members finance motion picture productions.*

(vi) *Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.*

(vii) *The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.*

(viii) *Detailed narratives, for use only by the Legislative Analyst's Office in conducting a study of the effectiveness of this credit, that describe the extent to which the credit is expected to influence or affect filming and other business location decisions,*

1 *hiring decisions, salary decisions, and any other financial matters*
2 *of the applicant.*

3 ~~(v)~~

4 (ix) Any other information deemed relevant by the California
5 Film Commission or the Franchise Tax Board.

6 (B) Establish criteria, consistent with the requirements of this
7 section, for allocating tax credits.

8 (C) Determine and designate applicants who meet the
9 requirements of this section.

10 (D) Process and approve, or reject, all applications on a
11 first-come-first-served basis.

12 (E) Subject to the annual cap established as provided in
13 subdivision (i), allocate an aggregate amount of credits under this
14 section and Section 23685, and allocate any carryover of
15 unallocated credits from prior years.

16 (2) Certify tax credits allocated to qualified taxpayers.

17 (A) Establish a verification procedure for the amount of qualified
18 expenditures paid or incurred by the applicant, *including, but not*
19 *limited to, updates to the information in subparagraph (A) of*
20 *paragraph (1) of subdivision (g).*

21 (B) Establish audit requirements that must be satisfied before
22 a credit certificate may be issued by the California Film
23 Commission.

24 (C) Issue a credit certificate to a qualified taxpayer upon
25 completion of the qualified motion picture reflecting the credit
26 amount allocated after qualified expenditures have been verified
27 under this section. The amount of credit shown in the credit
28 certificate shall not exceed the amount of credit allocated to that
29 qualified taxpayer pursuant to this section.

30 (3) ~~(A) Provide the Legislative Analyst's Office with all~~
31 ~~application materials sent to the film commission, including, but~~
32 ~~not limited to, all of the following:~~

33 ~~(i) The expenditures of the applicants, by type of production~~
34 ~~and recipient, for both those qualified for the credit and those not~~
35 ~~qualified.~~

36 ~~(ii) The applicant's amount of sales and use tax paid and~~
37 ~~financial situation, including, but not limited to, earnings, profits~~
38 ~~and losses, United States Security and Exchange Commission~~
39 ~~filings, and annual reports for all subsidiaries and principals, and~~
40 ~~competitive environment.~~

1 (iii) Evidence, when possible, that filming or activity would
2 have occurred elsewhere but for the credit.

3 (iv) For all qualified taxpayers that are part of the controlled
4 group, for every year it applies and in the year the credit is received,
5 a list of all other members of the commonly controlled group, as
6 defined in Section 25105, or members of the combined reporting
7 group, as defined in Section 25106.5(b)(3) of Title 18 of the
8 California Code of Regulations, that filmed productions or planned
9 to film productions.

10 (v) The number of applicants that have applied for the credit
11 and the number of qualified taxpayers that have received the credit.

12 (vi) The total amount of qualified wages paid on the qualified
13 motion picture project when the credit is applied for and when the
14 tax credit certificate is received.

15 (B) All information shared with the Legislative Analyst's Office
16 shall be confidential.

17 (C) To the extent the film commission is required to amend its
18 application form to collect the information required by this
19 paragraph, the film commission shall not be subject to the
20 requirements of Chapter 3.5 (commencing with Section 11340) of
21 Part 1 of Division 3 of Title 2 of the Government Code for purposes
22 of adopting those amendments to the application form., upon
23 request, any application materials or any other materials received
24 from applicants, including, but not limited to, information in
25 electronic format when available.

26 (A) Financial information, including, but not limited to,
27 statements of profits and losses of a partnership or of an owner
28 of a single member limited liability company that is disregarded
29 pursuant to Section 23038.

30 (B) The names of all members of the qualified taxpayer's
31 combined reporting group and any member to which the credit is
32 assigned.

33 (C) The names of all partners in a partnership or the names of
34 all members of a limited liability company classified as a
35 partnership for California income tax purposes that is not publicly
36 traded.

37 (D) The sales price of a credit certificate provided by the
38 Franchise Tax Board. The Franchise Tax Board, upon request
39 and subject to confidentiality requirements, shall provide aggregate

1 *information on the identity of the qualified taxpayer, the amount*
2 *of the credit, and the credit recipient.*

3 (h) The California Film Commission shall provide the Franchise
4 Tax Board and the board annually with a list of qualified taxpayers
5 and the tax credit amounts allocated to each qualified taxpayer by
6 the California Film Commission. The list shall include the names
7 and taxpayer identification numbers, including taxpayer
8 identification numbers of each partner or shareholder, as applicable,
9 of the qualified taxpayer.

10 (i) (1) The aggregate amount of credits that may be allocated
11 in any fiscal year pursuant to this section and Section 23686 shall
12 be an amount equal to the sum of all of the following:

13 (A) One hundred million dollars (\$100,000,000) in credits for
14 the 2009–10 fiscal year and each fiscal year thereafter, through
15 and including the ~~2018–19~~ 2014–15 fiscal year.

16 (B) The unused allocation credit amount, if any, for the
17 preceding fiscal year.

18 (C) The amount of previously allocated credits not certified.

19 (2) If the amount of credits applied for in any particular fiscal
20 year exceeds the aggregate amount of tax credits authorized to be
21 allocated under this section, such excess shall be treated as having
22 been applied for on the first day of the subsequent fiscal year.
23 However, credits may not be allocated from a fiscal year other
24 than the fiscal year in which the credit was originally applied for
25 or the immediately succeeding fiscal year.

26 (3) Notwithstanding the foregoing, the California Film
27 Commission shall set aside up to ten million dollars (\$10,000,000)
28 of tax credits each fiscal year for independent films allocated in
29 accordance with rules and regulations developed pursuant to
30 subdivision (e).

31 (4) Any act that reduces the amount that may be allocated
32 pursuant to paragraph (1) constitutes a change in state taxes for
33 the purpose of increasing revenues within the meaning of Section
34 3 of Article XIII A of the California Constitution and may be passed
35 by not less than two-thirds of all Members elected to each of the
36 two houses of the Legislature.

37 (j) The California Film Commission shall have the authority to
38 allocate tax credits in accordance with this section and in
39 accordance with any regulations prescribed pursuant to subdivision
40 (e) upon adoption.

(k) (1) ~~The Legislative Analyst's Office shall conduct a study to assess the total economic activity generated by productions that have received a tax certificate and productions that were allocated a tax credit certificate pursuant to this section and Section 23685. The total economic activity includes, but is not limited to, output, employment, labor income, and payments for goods and services utilized in productions. The study shall report the statewide direct, indirect, and induced activity and shall include the impact of the deferred claiming of the credit.~~

~~(2) In the conduct of the study, the State Board of Equalization, the Franchise Tax Board, the Employment Development Department, and other relevant agencies are authorized to share information, including the listing under subdivision (g) of Section 6902.5, but shall retain taxpayer confidentiality. The information provided subject to this subdivision shall be subject to Section 49542., on or before January 1, 2015, and on or before January 1, 2017, release publicly and provide to the Assembly Committee on Revenue and Taxation and the Senate Committee on Governance and Finance a study evaluating the economic effects and administration of the tax credit program described in this section and related sections of this code.~~

~~(2) In conducting the study, the Legislative Analyst's Office may request application materials, sent to and received by the California Film Commission, including, but not limited to, both of the following:~~

~~(A) The estimated expenditures of the applicants, and the estimated and certified expenditures of the qualified taxpayers, the type of production, and the company name of the applicant or the qualified taxpayer.~~

~~(B) For all qualified taxpayers that are part of the controlled group, for every year an application is made and in the year the credit is received, a list of all other members of the commonly controlled group, as defined in Section 25105, or members of the combined reporting group, as described in Section 25106.5(b)(3) of Title 18 of the California Code of Regulations, that filmed productions or planned to film productions.~~

~~(3) (A) For purposes of assisting the Legislative Analyst's Office in the conduct of the study, the State Board of Equalization, the Franchise Tax Board, the Employment Development Department, and other relevant agencies are authorized to share information~~

1 with the Legislative Analyst's Office, including the listing under
2 subdivision (g) of Section 6902.5, but shall retain taxpayer
3 confidentiality. The information provided subject to this subdivision
4 shall be subject to Section 19542. The Legislative Analyst's Office
5 may publish statistics in conjunction with its study that are derived
6 from tax agency information and information provided by the
7 California Film Commission, so long as the published information
8 is classified to prevent the identification of particular taxpayers,
9 reports, and tax returns, or the publication of the percentage of
10 dividends paid by any corporation that is deductible by the
11 recipient under Part 11 (commencing with Section 23001).

12 (B) The Franchise Tax Board shall provide the Legislative
13 Analyst's Office the sales price of a credit certificate that was sold.

14 ~~(3)~~

15 (4) The studies shall be reported to the appropriate Assembly
16 and Senate committees relating to revenue and taxation.

17 SEC. 3. Section 17053.86 is added to the Revenue and Taxation
18 Code, to read:

19 17053.86. On or after January 1, 2012, the Director of Finance
20 shall eliminate the allocation of the film tax credit from July 1,
21 2014, to July, 1, 2015, inclusive, pursuant to Sections 17053.85
22 and 23685, if the higher revenue forecast determined pursuant to
23 subdivision (a) of Section 3.94 of Chapter 41 of the Statutes of
24 2011 projects General Fund revenues for the 2011–12 fiscal year
25 of less than eighty-seven billion four hundred fifty-two million five
26 hundred thousand dollars (\$87,452,500,000), and if subdivision
27 (b) of Section 3.94 of Chapter 41 of the Statutes of 2011 is
28 operative.

29 ~~SEC. 3.~~

30 SEC. 4. Section 23685 of the Revenue and Taxation Code, as
31 added by Section 9 of Chapter 10 of the 3rd Extraordinary Session
32 of the Statutes of 2009, is repealed.

33 ~~SEC. 4.~~

34 SEC. 5. Section 23685 of the Revenue and Taxation Code, as
35 added by Section 9 of Chapter 17 of the 3rd Extraordinary Session
36 of the Statutes of 2009, is amended to read:

37 23685. (a) (1) For taxable years beginning on or after January
38 1, 2011, there shall be allowed to a qualified taxpayer a credit
39 against the "tax," as defined in Section 23036, in an amount equal
40 to the applicable percentage, as specified in paragraph (4), of the

1 qualified expenditures for the production of a qualified motion
2 picture in California.

3 (2) The credit shall be allowed for the taxable year in which the
4 California Film Commission issues the credit certificate pursuant
5 to subdivision (g) for the qualified motion picture, and shall be for
6 the applicable percentage of all qualified expenditures paid or
7 incurred by the qualified taxpayer in all taxable years for that
8 qualified motion picture.

9 (3) The amount of the credit allowed to a qualified taxpayer
10 shall be limited to the amount specified in the credit certificate
11 issued to the qualified taxpayer by the California Film Commission
12 pursuant to subdivision (g).

13 (4) For purposes of paragraphs (1) and (2), the applicable
14 percentage shall be:

15 (A) Twenty percent of the qualified expenditures attributable
16 to the production of a qualified motion picture in California.

17 (B) Twenty-five percent of the qualified expenditures
18 attributable to the production of a qualified motion picture in
19 California where the qualified motion picture is a television series
20 that relocated to California or an independent film.

21 (b) For purposes of this section:

22 (1) “Ancillary product” means any article for sale to the public
23 that contains a portion of, or any element of, the qualified motion
24 picture.

25 (2) “Budget” means an estimate of all expenses paid or incurred
26 during the production period of a qualified motion picture. It shall
27 be the same budget used by the qualified taxpayer and production
28 company for all qualified motion picture purposes.

29 (3) “Clip use” means a use of any portion of a motion picture,
30 other than the qualified motion picture, used in the qualified motion
31 picture.

32 (4) “Credit certificate” means the certificate issued by the
33 California Film Commission pursuant to subparagraph (C) of
34 paragraph (2) of subdivision (g).

35 (5) (A) “Employee fringe benefits” means the amount allowable
36 as a deduction under this part to the qualified taxpayer involved
37 in the production of the qualified motion picture, exclusive of any
38 amounts contributed by employees, for any year during the
39 production period with respect to any of the following:

1 (i) Employer contributions under any pension, profit-sharing,
2 annuity, or similar plan.

3 (ii) Employer-provided coverage under any accident or health
4 plan for employees.

5 (iii) The employer's cost of life or disability insurance provided
6 to employees.

7 (B) Any amount treated as wages under clause (i) of
8 subparagraph (A) of paragraph (18) shall not be taken into account
9 under this paragraph.

10 (6) "Independent film" means a motion picture with a minimum
11 budget of one million dollars (\$1,000,000) and a maximum budget
12 of ten million dollars (\$10,000,000) that is produced by a company
13 that is not publicly traded and publicly traded companies do not
14 own, directly or indirectly, more than 25 percent of the producing
15 company.

16 (7) "Licensing" means any grant of rights to distribute the
17 qualified motion picture, in whole or in part.

18 (8) "New use" means any use of a motion picture in a medium
19 other than the medium for which it was initially created.

20 (9) (A) "Postproduction" means the final activities in a qualified
21 motion picture's production, including editing, foley recording,
22 automatic dialogue replacement, sound editing, scoring and music
23 editing, beginning and end credits, negative cutting, negative
24 processing and duplication, the addition of sound and visual effects,
25 soundmixing, film-to-tape transfers, encoding, and color correction.

26 (B) "Postproduction" does not include the manufacture or
27 shipping of release prints.

28 (10) "Preproduction" means the process of preparation for actual
29 physical production which begins after a qualified motion picture
30 has received a firm agreement of financial commitment, or is
31 greenlit, with, for example, the establishment of a dedicated
32 production office, the hiring of key crew members, and includes,
33 but is not limited to, activities that include location scouting and
34 execution of contracts with vendors of equipment and stage space.

35 (11) "Principal photography" means the phase of production
36 during which the motion picture is actually shot, as distinguished
37 from preproduction and postproduction.

38 (12) "Production period" means the period beginning with
39 preproduction and ending upon completion of postproduction.

1 (13) “Qualified entity” means a personal service corporation as
2 defined in Section 269A(b)(1) of the Internal Revenue Code, a
3 payroll services corporation, or any entity receiving qualified wages
4 with respect to services performed by a qualified individual.

5 (14) (A) “Qualified individual” means any individual who
6 performs services during the production period in an activity related
7 to the production of a qualified motion picture.

8 (B) “Qualified individual” shall not include either of the
9 following:

10 (i) Any individual related to the qualified taxpayer as described
11 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
12 Revenue Code.

13 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
14 the Internal Revenue Code, of the qualified taxpayer.

15 (15) (A) “Qualified motion picture” means a motion picture
16 that is produced for distribution to the general public, regardless
17 of medium that is one of the following:

18 (i) A feature with a minimum production budget of one million
19 dollars (\$1,000,000) and a maximum production budget of
20 seventy-five million dollars (\$75,000,000).

21 (ii) A movie of the week or miniseries with a minimum
22 production budget of five hundred thousand dollars (\$500,000).

23 (iii) A new television series produced in California with a
24 minimum production budget of one million dollars (\$1,000,000)
25 licensed for original distribution on basic cable.

26 (iv) An independent film.

27 (v) A television series that relocated to California.

28 (B) To qualify as a “qualified motion picture,” all of the
29 following conditions shall be satisfied:

30 (i) At least 75 percent of the production days occur wholly in
31 California or 75 percent of the production budget is incurred for
32 payment for services performed within the state and the purchase
33 or rental of property used within the state.

34 (ii) Production of the qualified motion picture is completed
35 within 30 months from the date on which the qualified taxpayer’s
36 application is approved by the California Film Commission. For
37 purposes of this section, a qualified motion picture is “completed”
38 when the process of postproduction has been finished.

1 (iii) The copyright for the motion picture is registered with the
2 United States Copyright Office pursuant to Title 17 of the United
3 States Code.

4 (iv) Principal photography of the qualified motion picture
5 commences after the date on which the application is approved by
6 the California Film Commission, but no later than 180 days after
7 the date of that approval.

8 (C) For the purposes of subparagraph (A), in computing the
9 total wages paid or incurred for the production of a qualified
10 motion picture, all amounts paid or incurred by all persons or
11 entities that share in the costs of the qualified motion picture shall
12 be aggregated.

13 (D) “Qualified motion picture” shall not include commercial
14 advertising, music videos, a motion picture produced for private
15 noncommercial use, such as weddings, graduations, or as part of
16 an educational course and made by students, a news program,
17 current events or public events program, talk show, game show,
18 sporting event or activity, awards show, telethon or other
19 production that solicits funds, reality television program, clip-based
20 programming if more than 50 percent of the content is comprised
21 of licensed footage, documentaries, variety programs, daytime
22 dramas, strip shows, one-half hour (air time) episodic television
23 shows, or any production that falls within the recordkeeping
24 requirements of Section 2257 of Title 18 of the United States Code.

25 (16) “Qualified expenditures” means amounts paid or incurred
26 to purchase or lease tangible personal property used within this
27 state in the production of a qualified motion picture and payments,
28 including qualified wages, for services performed within this state
29 in the production of a qualified motion picture.

30 (17) (A) “Qualified taxpayer” means a taxpayer who has paid
31 or incurred qualified expenditures and has been issued a credit
32 certificate by the California Film Commission pursuant to
33 subdivision (g).

34 (B) (i) In the case of any passthrough entity, the determination
35 of whether a taxpayer is a qualified taxpayer under this section
36 shall be made at the entity level and any credit under this section
37 is not allowed to the passthrough entity, but shall be passed through
38 to the partners or shareholders in accordance with applicable
39 provisions of Part 10 (commencing with Section 17001) or Part
40 11 (commencing with Section 23001). For purposes of this

1 paragraph, “passthrough entity” means any entity taxed as a
2 partnership or “S” corporation.

3 (ii) In the case of an “S” corporation, the credit allowed under
4 this section shall not be used by an “S” corporation as a credit
5 against a tax imposed under Chapter 4.5 (commencing with Section
6 23800) of Part 11 of Division 2.

7 (18) (A) “Qualified wages” means all of the following:

8 (i) Any wages subject to withholding under Division 6
9 (commencing with Section 13000) of the Unemployment Insurance
10 Code that were paid or incurred by any taxpayer involved in the
11 production of a qualified motion picture with respect to a qualified
12 individual for services performed on the qualified motion picture
13 production within this state.

14 (ii) The portion of any employee fringe benefits paid or incurred
15 by any taxpayer involved in the production of the qualified motion
16 picture that are properly allocable to qualified wage amounts
17 described in clause (i).

18 (iii) Any payments made to a qualified entity for services
19 performed in this state by qualified individuals within the meaning
20 of paragraph (14).

21 (iv) Remuneration paid to an independent contractor who is a
22 qualified individual for services performed within this state by that
23 qualified individual.

24 (B) “Qualified wages” shall not include any of the following:

25 (i) Expenses, including wages, related to new use, reuse, clip
26 use, licensing, secondary markets, or residual compensation, or
27 the creation of any ancillary product, including, but not limited to,
28 a soundtrack album, toy, game, trailer, or teaser.

29 (ii) Expenses, including wages, paid or incurred with respect to
30 acquisition, development, turnaround, or any rights thereto.

31 (iii) Expenses, including wages, related to financing, overhead,
32 marketing, promotion, or distribution of a qualified motion picture.

33 (iv) Expenses, including wages, paid per person per qualified
34 motion picture for writers, directors, music directors, music
35 composers, music supervisors, producers, and performers, other
36 than background actors with no scripted lines.

37 (19) “Residual compensation” means supplemental
38 compensation paid at the time that a motion picture is exhibited
39 through new use, reuse, clip use, or in secondary markets, as
40 distinguished from payments made during production.

1 (20) “Reuse” means any use of a qualified motion picture in the
2 same medium for which it was created, following the initial use
3 in that medium.

4 (21) “Secondary markets” means media in which a qualified
5 motion picture is exhibited following the initial media in which it
6 is exhibited.

7 (22) “Television series that relocated to California” means a
8 television series, without regard to episode length or initial media
9 exhibition, that filmed all of its prior season or seasons outside of
10 California and for which the taxpayer certifies that the credit
11 provided pursuant to this section is the primary reason for
12 relocating to California.

13 (c) (1) Notwithstanding subdivision (i) of Section 23036,
14 ~~relating to credits attributable to a passthrough business entity~~, in
15 the case where the credit allowed by this section exceeds the
16 taxpayer’s tax liability computed under this part, a qualified
17 taxpayer may elect to assign any portion of the credit allowed
18 under this section to one or more affiliated corporations for each
19 taxable year in which the credit is allowed. For purposes of this
20 subdivision, “affiliated corporation” has the meaning provided in
21 subdivision (b) of Section 25110, as that section was amended by
22 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
23 year in which the credit is allowed, except that “100 percent” is
24 substituted for “more than 50 percent” wherever it appears in the
25 section, and “voting common stock” is substituted for “voting
26 stock” wherever it appears in the section.

27 (2) The election provided in paragraph (1):

28 (A) May be based on any method selected by the qualified
29 taxpayer that originally receives the credit.

30 (B) Shall be irrevocable for the taxable year the credit is allowed,
31 once made.

32 (C) May be changed for any subsequent taxable year if the
33 election to make the assignment is expressly shown on each of the
34 returns of qualified taxpayer and a qualified taxpayer’s affiliated
35 corporations that assign and receive the credits.

36 (3) (A) Notwithstanding any other law, a qualified taxpayer,
37 may sell any credit allowed under this section that is attributable
38 to an independent film, as defined in paragraph (6) of subdivision
39 (b), to an unrelated party.

(B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(4) In the case where the credit allowed under this section exceeds the “tax,” the excess credit may be carried over to reduce the “tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(6) A party that has been assigned or acquired tax credits under this paragraph shall be subject to the requirements of this section.

(7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

(9) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.

(10) Subdivision (i) of Section 23036 shall not apply to any credit sold pursuant to this subdivision.

(11) For purposes of this subdivision:

(A) An affiliated corporation or corporations that are assigned a credit pursuant to paragraph (1) shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

(B) The unrelated party or parties that purchase a credit pursuant to paragraph (3) shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

1 (d) No credit shall be allowed pursuant to this section unless
2 the qualified taxpayer provides the following to the California
3 Film Commission:

- 4 (1) Identification of each qualified individual.
5 (2) The specific start and end dates of production.
6 (3) The total wages paid.
7 (4) The amount of qualified wages paid to each qualified
8 individual.

9 (5) The copyright registration number, as reflected on the
10 certificate of registration issued under the authority of Section 410
11 of Title 17 of the United States Code, relating to registration of
12 claim and issuance of certificate. The registration number shall be
13 provided on the return claiming the credit.

14 (6) The total amounts paid or incurred to purchase or lease
15 tangible personal property used in the production of a qualified
16 motion picture.

17 (7) Information to substantiate its qualified expenditures.

18 (8) Information required by the California Film Commission
19 under regulations promulgated pursuant to subdivision (g)
20 necessary to verify the amount of credit claimed.

21 (e) The California Film Commission may prescribe rules and
22 regulations to carry out the purposes of this section including any
23 rules and regulations necessary to establish procedures, processes,
24 requirements, and rules identified in or required to implement this
25 section. The regulations shall include provisions to set aside a
26 percentage of annual credit allocations for independent films.

27 (f) If the qualified taxpayer fails to provide the copyright
28 registration number as required in paragraph (5) of subdivision
29 (d), the credit shall be disallowed and assessed and collected under
30 Section 19051 until the procedures are satisfied.

31 (g) For purposes of this section, the California Film Commission
32 shall do the following:

33 (1) On or after July 1, 2009, and before July 1, ~~2019~~ 2015,
34 allocate tax credits to applicants.

35 (A) Establish a procedure for applicants to file with the
36 California Film Commission a written application, on a form jointly
37 prescribed by the California Film Commission and the Franchise
38 Tax Board for the allocation of the tax credit. The application shall
39 include, but not be limited to, the following information:

40 (i) The budget for the motion picture production.

1 (ii) The number of production days.

2 (iii) A financing plan for the production.

3 (iv) The diversity of the workforce employed by the applicant,
4 including, but not limited to, the ethnic and racial makeup of the
5 individuals employed by the applicant during the production of
6 the qualified motion picture, to the extent possible.

7 (v) *All members of a combined reporting group and any*
8 *members to which the credit is assigned, including, if readily*
9 *available, the states, provinces, or other jurisdictions in which*
10 *any of those members finance motion picture productions.*

11 (vi) *Financial information, if available, including, but not limited*
12 *to, the most recently produced balance sheets, annual statements*
13 *of profits and losses, audited or unaudited financial statements,*
14 *summary budget projections or results, or the functional equivalent*
15 *of these documents of a partnership or owner of a single member*
16 *limited liability company that is disregarded pursuant to Section*
17 *23038. The information provided pursuant to this clause shall be*
18 *confidential and shall not be subject to public disclosure.*

19 (vii) *The names of all partners in a partnership not publicly*
20 *traded or the names of all members of a limited liability company*
21 *classified as a partnership not publicly traded for California*
22 *income tax purposes. The information provided pursuant to this*
23 *clause shall be confidential and shall not be subject to public*
24 *disclosure.*

25 (viii) *Detailed narratives, for use only by the Legislative*
26 *Analyst's Office in conducting a study of the effectiveness of this*
27 *credit, that describe the extent to which the credit is expected to*
28 *influence or affect filming and other business location decisions,*
29 *hiring decisions, salary decisions, and any other financial matters*
30 *of the applicant.*

31 ~~(v)~~

32 (ix) Any other information deemed relevant by the California
33 Film Commission or the Franchise Tax Board.

34 (B) Establish criteria, consistent with the requirements of this
35 section, for allocating tax credits.

36 (C) Determine and designate applicants who meet the
37 requirements of this section.

38 (D) Process and approve, or reject, all applications on a
39 first-come-first-served basis.

1 (E) Subject to the annual cap established as provided in
2 subdivision (i), allocate an aggregate amount of credits under this
3 section and Section 17053.85, and allocate any carryover of
4 unallocated credits from prior years.

5 (2) Certify tax credits allocated to qualified taxpayers.

6 (A) Establish a verification procedure for the amount of qualified
7 expenditures paid or incurred by the applicant, *including, but not*
8 *limited to, updates to the information in subparagraph (A) of*
9 *paragraph (1) of subdivision (g).*

10 (B) Establish audit requirements that must be satisfied before
11 a credit certificate may be issued by the California Film
12 Commission.

13 (C) Issue a credit certificate to a qualified taxpayer upon
14 completion of the qualified motion picture reflecting the credit
15 amount allocated after qualified expenditures have been verified
16 under this section. The amount of credit shown in the credit
17 certificate shall not exceed the amount of credit allocated to that
18 qualified taxpayer pursuant to this section.

19 (3) ~~(A) Provide the Legislative Analyst's Office with all~~
20 ~~application materials sent to the film commission, including, but~~
21 ~~not limited to, all of the following:~~

22 (i) ~~The expenditures of the applicants, by type of production~~
23 ~~and recipient, for both those qualified for the credit and those not~~
24 ~~qualified.~~

25 (ii) ~~The applicant's amount of sales tax and financial situation,~~
26 ~~including, but not limited to, earnings, profits and losses, United~~
27 ~~States Security and Exchange Commission filings, and annual~~
28 ~~reports for all subsidiaries and principals, and competitive~~
29 ~~environment.~~

30 (iii) ~~Evidence, when possible, that filming or activity would~~
31 ~~have occurred elsewhere but for the credit.~~

32 (iv) ~~For all qualified taxpayers that are part of the controlled~~
33 ~~group for every year it applies and in the year the credit is received,~~
34 ~~a list of all other members of the commonly controlled group, as~~
35 ~~defined in Section 25105, or members of the combined reporting~~
36 ~~group, as defined in paragraph (3) of subdivision (b) of Section~~
37 ~~25106.5 of Title 18 of the California Code of Regulations, that~~
38 ~~filmed productions or planned to film productions.~~

39 (v) ~~The number of applicants that have applied for the credit~~
40 ~~and the number of qualified taxpayers that have received the credit.~~

1 ~~(vi) The total amount of qualified wages paid on the qualified~~
2 ~~motion picture when the credit is applied for and when the tax~~
3 ~~credit certificate is received.~~

4 ~~(B) All information shared with the Legislative Analyst's Office~~
5 ~~shall be confidential.~~

6 ~~(C) To the extent the film commission is required to amend its~~
7 ~~application form to collect the information required by this~~
8 ~~paragraph, the film commission shall not be subject to the~~
9 ~~requirements of Chapter 3.5 (commencing with Section 11340) of~~
10 ~~Part 1 of Division 3 of Title 2 of the Government Code for purposes~~
11 ~~of adopting those amendments to the application form., upon~~
12 ~~request, any application materials or any other materials received~~
13 ~~from applicants, including, but not limited to, information in~~
14 ~~electronic format when available.~~

15 ~~(A) Financial information, including, but not limited to,~~
16 ~~statements of profits and losses of a partnership or of an owner~~
17 ~~of a single member limited liability company that is disregarded~~
18 ~~pursuant to Section 23038.~~

19 ~~(B) The names of all members of the qualified taxpayer's~~
20 ~~combined reporting group and any member to which the credit is~~
21 ~~assigned.~~

22 ~~(C) The names of all partners in a partnership or the names of~~
23 ~~all members of a limited liability company classified as a~~
24 ~~partnership for California income tax purposes that is not publicly~~
25 ~~traded.~~

26 ~~(D) The sales price of a credit certificate provided by the~~
27 ~~Franchise Tax Board. The Franchise Tax Board, upon request~~
28 ~~and subject to confidentiality requirements, shall provide aggregate~~
29 ~~information on the identity of the qualified taxpayer, the amount~~
30 ~~of the credit, and the credit recipient.~~

31 (h) The California Film Commission shall provide the Franchise
32 Tax Board and the board annually with a list of qualified taxpayers
33 and the tax credit amounts allocated to each qualified taxpayer by
34 the California Film Commission. The list shall include the names
35 and taxpayer identification numbers, including taxpayer
36 identification numbers of each partner or shareholder, as applicable,
37 of the qualified taxpayer.

38 (i) (1) The aggregate amount of credits that may be allocated
39 in any fiscal year pursuant to this section and Section 17053.85
40 shall be an amount equal to the sum of all of the following:

1 (A) One hundred million dollars (\$100,000,000) in credits for
2 the 2009–10 fiscal year and each fiscal year thereafter, through
3 and including the ~~2018–19~~ 2014–15 fiscal year.

4 (B) The unused allocation credit amount, if any, for the
5 preceding fiscal year.

6 (C) The amount of previously allocated credits not certified.

7 (2) If the amount of credits applied for in any particular fiscal
8 year exceeds the aggregate amount of tax credits authorized to be
9 allocated under this section, such excess shall be treated as having
10 been applied for on the first day of the subsequent fiscal year.
11 However, credits may not be allocated from a fiscal year other
12 than the fiscal year in which the credit was originally applied for
13 or the immediately succeeding fiscal year.

14 (3) Notwithstanding the foregoing, the California Film
15 Commission shall set aside up to ten million dollars (\$10,000,000)
16 of tax credits each fiscal year for independent films allocated in
17 accordance with rules and regulations developed pursuant to
18 subdivision (e).

19 (4) Any act that reduces the amount that may be allocated
20 pursuant to paragraph (1) constitutes a change in state taxes for
21 the purpose of increasing revenues within the meaning of Section
22 3 of Article XIII A of the California Constitution and may be passed
23 by not less than two-thirds of all Members elected to each of the
24 two houses of the Legislature.

25 (j) The California Film Commission shall have the authority to
26 allocate tax credits in accordance with this section and in
27 accordance with any regulations prescribed pursuant to subdivision
28 (e) upon adoption.

29 (k) (1) ~~The Legislative Analyst's Office shall conduct a study~~
30 ~~to assess the total economic activity generated by productions that~~
31 ~~have received a tax credit certificate and productions that were~~
32 ~~allocated a tax credit certificate pursuant to this section and Section~~
33 ~~17053.85. The total economic activity includes, but is not limited~~
34 ~~to, output, employment, labor income, and payments for goods~~
35 ~~and services utilized in productions. The study shall report the~~
36 ~~statewide direct, indirect, and induced activity and shall include~~
37 ~~the impact of the deferred claiming of the credit.~~

38 ~~(2) In the conduct of the study, the State Board of Equalization,~~
39 ~~the Franchise Tax Board, the Employment Development~~
40 ~~Department, and other relevant agencies are authorized to share~~

1 information, including the listing under subdivision (g) of Section
2 6902.5, but shall retain taxpayer confidentiality. The information
3 provided subject to this subdivision shall be subject to Section
4 19542, on or before January 1, 2015, and on or before January
5 1, 2017, release publicly and provide to the Assembly Committee
6 on Revenue and Taxation and the Senate Committee on
7 Governance and Finance a study evaluating the economic effects
8 and administration of the tax credit program described in this
9 section and related sections of this code.

10 (2) In conducting the study, the Legislative Analyst's Office may
11 request application materials, sent to and received by the
12 California Film Commission, including, but not limited to, both
13 of the following:

14 (A) The estimated expenditure of the applicants, and the
15 estimated and certified expenditures of the qualified taxpayers,
16 the type of production, and the company name of the applicant of
17 the qualified taxpayer.

18 (B) For all qualified taxpayers that are part of the controlled
19 group, for every year an application is made and in the year the
20 credit is received, a list of all other members of the commonly
21 controlled group, as defined in Section 25105, or members of the
22 combined reporting group, as described in Section 25106.5(b)(3)
23 of Title 18 of the California Code of Regulations, that filmed
24 productions or planned to film productions.

25 (3) (A) For purposes of assisting the Legislative Analyst's Office
26 in the conduct of the study, the State Board of Equalization, the
27 Franchise Tax Board, the Employment Development Department,
28 and other relevant agencies are authorized to share information
29 with the Legislative Analyst's Office, including the listing under
30 subdivision (g) of Section 6902.5, but shall retain taxpayer
31 confidentiality. The information provided subject to this subdivision
32 shall be subject to Section 19542. The Legislative Analyst's Office
33 may publish statistics in conjunction with its study that are derived
34 from tax agency information and information provided by the
35 California Film Commission, so long as the published information
36 is classified to prevent the identification of particular taxpayers,
37 reports, and tax returns, or the publication of the percentage of
38 dividends paid by any corporation that is deductible by the
39 recipient under Part 11 (commencing with Section 23001).

1 (B) *The Franchise Tax Board shall provide the Legislative*
2 *Analyst's Office the sales price of a credit certificate that was sold.*

3 ~~(3)~~

4 (4) The studies shall be reported to the appropriate Assembly
5 and Senate committees relating to revenue and taxation.

6 ~~SEC. 5.~~

7 SEC. 6. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

16 ~~SEC. 6.~~

17 SEC. 7. This act provides for a tax levy within the meaning of
18 Article IV of the Constitution and shall go into immediate effect.